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House Bill _____
By _____

Senate No. SB1147
By Henry

AN ACT relative to the keeping of domesticated animals in certain housing projects, and to amend Tennessee Code Annotated, Title 13.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. As used in this act, unless the context requires otherwise:

(1) "Continuing nuisance" means the keeping of a domesticated animal in a manner which interferes with the health, security and comfort of the other residents of a senior citizen housing project, or the keeping of domesticated animals of a number, size, breed or species inappropriate for the type or size of senior citizen housing project or a dwelling unit within that senior citizen housing project.

(2) "Domesticated animal" means a dog, cat, bird, fish or other animal which does not constitute a health or safety hazard.

(3) "Landlord" means, in the case of a senior citizen housing project in which dwelling units are rented or offered for rent under either a written or oral lease, the person or persons who own or purport to own the building, structure or complex of buildings or structures in which those rental dwelling units are situated. In the case of a

senior citizen housing project that is organized or operated as a planned real estate development, landlord means the governing board or body of that development.

(4) "Planned real estate development" means any real property situated within the State, whether contiguous or not, which consists of, or will consist of, separately owned areas, irrespective of form, be it lots, parcels, units, or interest, and which are offered or disposed of pursuant to a common promotional plan, and providing for common or shared elements or interests in real property. It shall include, but not be limited to any form of homeowners' association, any housing cooperative or any community trust or other trust device.

(5) "Senior citizen" means a person sixty-two (62) years of age or over and shall include a surviving spouse if that surviving spouse is fifty-five (55) years of age or over.

(6) "Senior citizen housing project" or "project" means any building or structure, and any land appurtenant thereto, having three (3) or more dwelling units, be they rental or owner-occupied, intended for, and solely occupied by, senior citizens; except that, it shall not include owner-occupied premises having not more than three (3) dwelling units that are rented or offered for rent, or any health care facility as defined in Tennessee Code Annotated, Section 68-11-102.

SECTION 2. Any senior citizen residing in a senior citizen housing project shall, upon providing written notice to the landlord, be permitted to own, harbor or care for a domesticated animal while a resident of that project.

SECTION 3.

(a) A landlord shall not arbitrarily refuse to renew a lease for a dwelling unit in a senior citizen housing project to any senior citizen who owns, harbors or cares for a domesticated animal in accordance with the provisions of Section 2 of this act, except as provided in Section 5 of this act.

Any landlord who so refuses to renew any such lease shall be subject to a civil penalty of not more than five hundred dollars (\$500) for each offense, recoverable by the senior citizen resident in a civil action in any court having jurisdiction.

(b) A landlord shall not require any senior citizen who resides in a senior citizen housing project to remove, by sale, donation, gift, or otherwise, any domesticated animal which that senior citizen owns, harbors or cares for in accordance with the provisions of Section 2 of this act, except as provided in Section 5 of this act.

SECTION 4.

(a) A landlord who is in compliance with the provisions of this act shall not be liable to respond in damages in any civil action for injury to persons or property caused by a domesticated animal owned, harbored or cared for by a senior citizen who is in compliance with the provisions of this act.

(b) Nothing in this section shall grant the landlord immunity for a willful or wanton act of commission or omission.

SECTION 5. Under the following circumstances, a landlord may refuse to renew a senior citizen's lease for a dwelling unit in a senior citizen housing project or may require that a senior citizen remove, by sale, donation, gift, or otherwise, a domesticated animal from a dwelling unit in a senior citizen housing project:

(a) When the existence of a domesticated animal or the senior citizen's refusal to comply with the rules and regulations governing domesticated animals constitutes a violation of federal, state or local building, health or use codes;

(b) When the senior citizen fails to properly care for the domesticated animal;

(c) When the senior citizen fails to properly control the domesticated animal by using a leash, if appropriate, or other necessary safety devices when walking or taking the domesticated animal to or from the senior citizen's dwelling unit or while on the land appurtenant thereto, or fails to take prompt action to remove any animal waste when requested by the landlord; or

(d) When the senior citizen fails to confine the domesticated animal's body waste functions to areas that do not interfere with the ingress and egress of any person to or from the senior citizen housing project, or with the use of common areas in and about the senior citizen housing project by the other residents thereof and their invitees.

SECTION 6. The presence of a guard dog used by the landlord shall not constitute a waiver of the provisions of this act.

SECTION 7. Nothing in this act shall impair the rights of a handicapped person to own, harbor or care for a domesticated animal, including guide dogs and service dogs, in accordance with law.

SECTION 8. Nothing in this act shall limit the legal rights and remedies of a landlord under the lease or the master deed and bylaws, as the case may be, to remove a domesticated animal that constitutes a continuing nuisance to the welfare or property of either the landlord or the other residents of a senior citizen housing project, nor shall it limit the legal rights and remedies of that landlord or other residents.

In any action to remove a domesticated animal or to evict a senior citizen from a senior citizen housing project for violating a lease due to the presence of a domesticated animal that is alleged to be a continuing nuisance, the plaintiff shall have the burden of proving that the domesticated animal is a continuing nuisance.

SECTION 9.

(a) A landlord shall have the right to promulgate reasonable written rules and regulations, in accordance with the provisions of this act, relating to the care and maintenance of domesticated animals by senior citizens, except that a landlord may not require that the domesticated animal be spayed or neutered. All such rules and regulations shall be transmitted, in writing, to the residents of each dwelling unit in the senior citizen housing project and shall be incorporated within each lease upon its subsequent renewal and the master deed and bylaws, as the case may be.

(b) A landlord may require that a senior citizen remove from the senior citizen housing project any offspring of his domesticated animal within eight weeks of their birth; except that, the landlord may require their removal at an earlier date if the offspring of that domesticated animal may be so removed without unreasonable danger to their health.

SECTION 10. Nothing in this act shall limit the rights of a municipality to prohibit, by ordinance, the owning, harboring or keeping of certain species of animals within the municipality.

SECTION 11. This act shall take effect July 1, 1995, the public welfare requiring it.